

AN ACT

ENTITLED, An Act to define the duty of insurers and rights of consumers with regard to auto insurance damage claims.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this Act, paintless dent repair is any auto body repair that removes minor dents by using specifically designed tools to manipulate and flex the metal from the backside of the dent without the necessity of sanding, priming, or painting.

Section 2. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as follows:

Any insurer providing commercial or personal motor vehicle insurance in this state responsible for repairing a damaged vehicle for which it is liable shall provide sufficient compensation to the insured to restore the vehicle to substantially the same physical condition as prior to the damage, regardless of whether the insured actually chooses to repair the vehicle. The insurer may adjust claims based in whole or in part upon the paintless dent repair method if:

- (1) The damage is such that the paintless dent repair method is likely to place the damaged area or a portion thereof in substantially the same condition as prior to the damage;
- (2) A paintless dent repair shop holding a South Dakota sales tax license is willing to perform the work as estimated within a reasonable time frame in the local market area of the insured; and
- (3) The written estimate provided to the insured prominently discloses the following:
 - (a) That the repair estimate is based in whole or in part upon the paintless dent repair method. Each item of damage adjusted using that method shall be identified;
 - (b) That paintless dent repair may not be the appropriate repair method for all types of

damage;

- (c) That, if the insurer is liable for the damage listed on the estimate, the insurer shall provide sufficient compensation to restore the vehicle to substantially the same physical condition; and
- (d) That for any damage which paintless dent repair is appropriate, the insured may choose not to repair the vehicle or to have the vehicle repaired using a different method of repair. If the insured chooses either of these options, the insurer is liable only for the cost of the paintless dent repair method.

However, if the insurer pays the claim based upon the paintless dent repair method and paintless dent repair was attempted but was unsuccessful, the insurer is liable for any repairs necessary to the area repaired by paintless dent repair, using the conventional method of repair, to restore the vehicle to substantially the same physical condition as prior to the damage.

Section 3. If, for any portion of the vehicle's damage that the insurer has a duty to repair, the paintless dent repair method is inappropriate, the insurer shall compensate the insured for the amount necessary to complete the repairs in the local market area of the insured. The insurer may not require the insured to travel an unreasonable distance to obtain a repair estimate or to have the vehicle repaired. The insurer may not name a repair shop as payee on a compensation check or draft unless agreed to by the insured.

Section 4. An insurer may comply with section 2 of this Act by entering into an agreement with a repairer that guarantees repairs and by notifying the insured of such an agreement.

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I certify that the attached Act
originated in the

SENATE as Bill No. 33

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 33
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State